

Before the
N.H. Board of Licensure for Professional Engineers
Concord, N.H. 03301

In the Matter of :

Gordon M. Soderholm, PE #10713
(Disciplinary Matter)

Docket No. 10-01

DECISION AND ORDER

By: Marc Morin, P.E., Chairperson; Dr. Carmela Amato-Wierda, Vice-Chairperson;
William Smagula, P.E., Member, Lee Carroll, P.E., Secretary and Robert Cruess, P.E.,
Member.

Appearances: Donna Lobdell, Program Specialist II.

BACKGROUND INFORMATION

This proceeding was commenced by an Order to Show Cause issued February 22, 2010 by the Board of Licensure for Professional Engineers ("the Board"), to determine whether Gordon M. Soderholm, P.E. #10713 (Mr. Soderholm or "the Respondent") engaged in unprofessional or dishonorable conduct violative of RSA 310-A:22, II (a) (c) (i) (j) (l) or all by: 1) failing to comply with the continuing education requirements of Eng 403.01 (b) for his July 2008 license renewal; 2) failing to submit proof of compliance for the Board's 2009 continuing education audit required per administrative rule Eng 403.07 (d); misrepresented that he complied with the continuing education requirements of 30 Continuing Education Hours on his 2008 license renewal in violation of RSA 310-A:22, II (a) (i), and administrative rule 501.03 (b) (1) and failed to cooperate with requests for information by the Board in violation of RSA 310-A:22, II (i) and administrative rule Eng 501.03 (e) (3).

A Show Cause hearing was held on Friday, April 16, 2010 at the Board office at 9:30 a.m. Mr. Soderholm failed to appear at the hearing. An Order to Show Cause was sent to Mr. Soderholm via US Mail return receipt requested dated February 22, 2010 signed for by Mr.

Soderholm on February 25, 2010. Mr. Soderholm did not notify the Board in writing that he would not attend the hearing. Due to Mr. Soderholm's failure to attend the hearing; the hearing was held in absentia. Testimony was received at the hearing from Donna Lobdell, Program Specialist II, Educational Specialist. Ms. Lobdell is the Joint Board staff member that is responsible for conducting the audit of continuing education compliance on behalf of the Board.

FINDINGS OF FACT

1. The Respondent was granted a license to practice engineering in the State of New Hampshire on March 22, 2002 and said license was current through July 31, 2010.
2. The Respondent indicated that he complied with the continuing education requirements of Eng 403.01 on his 2008 license renewal.
3. Mr. Soderholm was notified by letter on October 7, 2009 that he was chosen by random audit to participate in the Board's 2009 audit of licensees for compliance with continuing education requirements per administrative rule Eng 403.01. Mr. Soderholm was instructed to provide proof to the Board of 30 Professional Development Hours claimed on his last renewal by November 20, 2009. Mr. Soderholm did not respond to the request for documentation of continuing education required per Eng 403.07 (c).
4. On December 2, 2009, Mr. Soderholm was sent a second letter regarding his failure to respond to the continuing education audit and a response was due by December 18, 2009. Mr. Soderholm failed to respond to the second request dated December 2, 2009 for documentation of continuing education required per Eng 403.07 (c). The December 2nd letter informed Mr. Soderholm that failure to respond to and provide the requested documentation by the deadline may result in disciplinary proceedings.
5. On December 22, 2009 Board staff member Donna Lobdell telephoned Mr. Soderholm to follow up on the two letters requesting documentation. Mr. Soderholm's on-file business telephone

number was no longer in service. On December 22, 2009 Ms. Lobdell also telephoned Mr. Soderholm at his on-file home telephone number and got a recording that indicated "voice mail option not activated." Ms. Lobdell was unable to leave a message at Mr. Soderholm's on-file home telephone number. On December 22, 2009 Ms. Lobdell further attempted to reach Mr. Soderholm by utilizing his on-file e-mail address. Ms. Lobdell's e-mail communication to Mr. Soderholm was returned as undeliverable.

6. On January 15, 2010 the Board sent Mr. Soderholm a third and final letter, via US Mail return receipt requested regarding his failure to respond to the Board's previous two requests to provide documentation for the Board's 2009 continuing education audit. Mr. Soderholm signed the return receipt dated January 29, 2010. The Board's January 15th letter informed Mr. Soderholm that failure to respond to and provide the requested documentation by the deadline might result in disciplinary proceedings.

7. Mr. Soderholm never responded to the Board's three written requests for documentation of continuing education dated October 7, 2009, December 2, 2009 and January 15, 2010.

8. A Show Cause Order was issued on February 22, 2010 by the New Hampshire Board of Licensure for Professional Engineers sent via US mail return receipt requested in which the Respondent was afforded the opportunity to appear before the Board on April 16, 2010 and show cause why any and all rights he may have to practice engineering in New Hampshire should not be suspended or subject to disciplinary action. The Showcause Order was sent via US mail, return receipt requested and was signed for by Gordon Soderholm on February 25, 2010.

9. On March 18, 2010 Ms. Lobdell telephoned Mr. Soderholm in and attempt to follow up with him on his lack of response to the continuing education audit at his on-file home telephone number and got a recording that indicated "voice mail option not activated." Ms. Lobdell was unable to leave a message at Mr. Soderholm's on-file home telephone number.

10. A Show Cause hearing was held on Friday, April 16, 2010 at the Board office at 9:30 a.m. Mr. Soderholm was absent from the hearing therefore the hearing was held in absentia.

CONCLUSIONS OF LAW

- I. The license renewal process relies heavily on accurate and honest self-reporting of continuing education by licensees. The Respondent violated the terms of the continuing education requirements for his 2008 license renewal by failing to provide proof of compliance with continuing education requirements of administrative rules Eng 403.01 in violation of administrative rule Eng 403.07 (c);
- II. The Respondent indicated that he complied with the continuing education requirements of 30 Professional Development Hours pursuant to Eng 403.01 (b), on his 2008 renewal. The Respondent failed to provide proof for the 2009 random audit of licensees that he complied with the continuing education requirements set forth in administrative rule Eng 403.01 (b) which is in violation of RSA 310-A:22 II (1) and 310-A:25 (b) (2), the practice of fraud and deceit in procuring or attempting to procure or renew a license; and
- III. The Respondent failed to respond to the Board's repeated requests for information regarding his compliance with continuing education requirements in violation of Eng 501.03 (e) (3) which requires licensees to cooperate with requests for information from the Board or Board representatives.

The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 310-A:22 (c), (g) and (i) and Eng 501.03 (e) (3).

THEREFORE, IT IS ORDERED, pursuant to RSA 310-A:23, V (c) the Board imposes the following sanctions:

The license to practice engineering in the State of New Hampshire of Gordon M. Soderholm #10713 is hereby suspended until such time as the following conditions are met:

1. The Respondent shall provide proof satisfactory to the Board of compliance with the continuing education requirements of his 2008 license renewal by May 19, 2010; and
2. The Respondent shall provide a satisfactory explanation to the Board of his failure to cooperate with the Board's 2009 audit of continuing education.

If the Respondent does not satisfy the conditions outlined above his license to practice Professional Engineering in the State of New Hampshire shall be permanently suspended pursuant to RSA 310-A:23, V.

Once the Respondent satisfactorily complies with the conditions outlined above, his license to practice Engineering in the State of New Hampshire shall be reissued pursuant to RSA 310-A:24.

- A. This order shall become a permanent document in the Respondent's file, which is maintained by the Board as a public document.
- B. This Order shall take effect on the date it is signed by an authorized representative of the Board.
- C. A motion for rehearing, reconsideration, or clarification shall be filed within 30 days of the effective date of this Order. This motion shall be in accordance with Eng part 213. Filing a motion for rehearing or reconsideration shall be a prerequisite to appealing this Order.

Dated: April 19, 2010

BY ORDER OF THE BOARD



Louise Lavertu
Executive Director